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## BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

DEC - 4 2007

MIKE GLEASON - Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF  
RED ROCK UTILITIES, LLC FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WATER SERVICE IN  
PIMA COUNTY, ARIZONA.

DOCKET NO. WS-04245A-07-0363

DECISION NO. 70030OPINION AND ORDER

DATE OF HEARING: September 28, 2007

PLACE OF HEARING: Tucson, Arizona

ADMINISTRATIVE LAW JUDGE: Jane L. Rodda<sup>1</sup>

APPEARANCES: Lawrence V. Robertson, Jr., on behalf of Red Rock Utilities, LLC; and

Robin Mitchell, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On June 13, 2007, Red Rock Utilities, LLC ("Red Rock" or "Company") filed with the Arizona Corporation Commission ("Commission") an Application for a Certificate of Convenience and Necessity to Provide Water Service ("Certificate" or "CC&N") in an unincorporated area within Pima County, Arizona ("Application").

2. On July 13, 2007, the Commission's Utilities Division Staff ("Staff") notified the Company that its application was administratively sufficient pursuant to the requirements of the Arizona Administrative Code ("A.A.C.").

<sup>1</sup> Administrative Law Judge Jane L. Rodda conducted the hearing on this matter. Administrative Law Judge Belinda A. Martin wrote the Recommended Opinion and Order.

1           3.     By Procedural Order issued July 31, 2007, this matter was scheduled for hearing on  
2 September 28, 2007.

3           4.     Pursuant to the July 31, 2007, Procedural Order, Red Rock mailed notice of the  
4 hearing to all property owners in the affected area on August 15, 2007, and published Notice in the  
5 *Arizona Daily Star* and the *Tucson Citizen* on August 7, 2007.

6           5.     On September 4, 2007, the Company filed an Amended Application.

7           6.     September 10, 2007, Staff filed its Staff Report in this matter. Staff recommended  
8 approval of the Application subject to certain conditions.

9           7.     On September 20, 2007, Red Rock filed Applicant's Response to Commission Staff  
10 Report, stating that they were pleased with the Staff's recommendations and offered no exceptions or  
11 objections.

12          8.     On September 28, 2007, the hearing in this matter convened before a duly authorized  
13 Administrative Law Judge.

14          9.     On October 5, 2007, Staff filed a late-filed exhibit without objection by the Company.

15          10.    Red Rock is a limited liability company currently providing water and sewer services  
16 to over 30 customers in Red Rock, Arizona, approximately 40 miles northwest of the proposed  
17 service area.<sup>2</sup> Diamond Ventures, Inc. is the manager of the Company.

18          11.    Red Rock submitted the Application in response to correspondence from South  
19 Wilmot Land Investors, LLC, the owners of the affected property, requesting that the Company  
20 provide water service to their land. South Wilmot Land Investors, LLC, is also managed by Diamond  
21 Ventures, Inc.

22          12.    Red Rock is seeking the Certificate in order to provide water service to Verano  
23 Community, a master-planned residential development of over 8,500 residential units and includes  
24 parks, schools and mixed use areas, all within Pima County. The development plan encompasses  
25 approximately 3,200 acres south of Tucson, Arizona and envisions construction in eight phases over  
26 19-20 years.

27 \_\_\_\_\_  
28 <sup>2</sup> Red Rock's CC&N for this development is pursuant to Decision No. 67409, dated November 2, 2004, and the  
Company began serving its first customers in July, 2007.

13. The legal description of Red Rock's proposed service area is set forth in Exhibit A attached to this Order. There are no other water service providers in the proposed service area. The Red Rock representative testified that sewer service likely will be provided by Pima County Waste Water Division.

14. When fully completed, the Verano Community water plant will consist of six wells, two 750,000 gallon storage reservoirs, two booster station sites and the necessary delivery system infrastructure. The first phase of construction is expected to consist of two wells, one 750,000 gallon reservoir, a booster station and the delivery system at a cost of approximately \$5.8 million.

15. The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter ("µg/l") to 10 µg/l. The date for compliance with the new MCL was January 23, 2006. The arsenic levels for the development's well sources are unknown at this time, but Staff expects that should the site's arsenic levels need to be lowered, such issue will be addressed in the Approval to Construct from the Arizona Department of Environmental Quality ("ADEQ").

16. Red Rock proposed an initial rate composed of graduated Monthly Usage Charges and three tier commodity rates. Staff agreed with the Company's base rates but recommends price changes to the Company's proposed commodity rate structure to encourage conservation efforts. Red Rock's proposed rates and charges, and Staff's recommended rates and charges, are as follows:

	Proposed Rates	
	<u>Company</u>	<u>Staff</u>
<u>MONTHLY USAGE CHARGE:</u>		
5/8" x 3/4" Meter	\$29.00	\$29.00
3/4" Meter	43.50	43.50
1" Meter	72.50	72.50
1 1/2" Meter	145.00	145.00
2" Meter	232.00	232.00
3" Meter	464.00	464.00
4" Meter	725.00	725.00
6" Meter	1,450.00	1,450.00

	<u>Company</u>	<u>Staff</u>
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COMMODITY CHARGE PER 1,000GALLONS:5/8 x 3/4" Meter

From 0 to 5,000 Gallons	\$3.30	
From 5,001 to 10,000	4.25	
In excess of 10,000	4.90	
From 0 to 4,000 Gallons		\$3.30
From 4,001 to 7,000		4.25
In excess of 7,000		4.90

All other meter sizes except irrigation

From 0 to 25,000 Gallons	\$4.25	\$4.25
In excess of 25,000	4.90	4.90

Irrigation

From 0 to 50,000 Gallons	\$4.25	\$4.25
In excess of 50,000	4.90	4.90

Commercial, industrial, irrigation and multi-family customers use AWWA capacity factor based on their respective meter size for determining how the tiers are applied	Included	See Note 1, below
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**Note 1:** The Company included this statement in the proposed tariff. Staff recommends that it not be included in the tariff as being too vague.

<u>Standpipe or bulk water per 1,000 gallons</u>	\$3.90	\$4.90
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SERVICE LINE AND METERINSTALLATION CHARGES

5/8" x 3/4" Meter	\$400.00	\$400.00
3/4" Meter	440.00	440.00
1" Meter	500.00	500.00
1 1/2" Meter	715.00	715.00
2" Meter (turbo)	1,170.00	1,170.00
2" Meter (compound)	1,700.00	1,700.00
3" Meter (turbo)	1,585.00	1,585.00
3" Meter (compound)	2,190.00	2,190.00
4" Meter (turbo)	2,540.00	2,540.00
4" Meter (compound)	3,215.00	3,215.00
6" Meter (turbo)	4,815.00	4,815.00
6" Meter (compound)	6,270.00	6,270.00

SERVICE CHARGES:

Establishment	\$25.00	\$25.00
Establishment of Service(After Hours)	50.00	50.00
Re-establishment of Service(Within 12 Months)	**	**
Reconnection	30.00	30.00
Charge for moving meter at customer request	Cost	Cost
After hours service charge, per hour	50.00	50.00
Deposit	*	*
Meter reread	15.00	15.00
Charge for NSF Check	25.00	25.00
Late Payment charge	1.50	***
Deferred Payment Finance Charge	1.50	****
Main Extension and additional facilities agreements	Cost	n/a
All revenue related taxes would be charged to customers		

\* Per Commission rule A.A.C. R14-2-403(B).

\*\* Months off system times the monthly minimum per Commission rule A.A.C. R14-2-403(D).

\*\*\* 1.50% of unpaid monthly balance per month.

\*\*\*\* Per Commission Rules A.A.C. 414-2-409(B).

17. A Curtailment Plan Tariff ("CPT") is an effective tool to allow a water company to manage its resources during periods of shortages due to pump breakdowns, droughts, or other unforeseeable events. Red Rock has a CPT for its existing service area and anticipates using a similar CPT that generally conforms to the sample tariff found on the Commission's website.

18. The Company's initial application indicated that the General Manager of Red Rock was Richard Williamson. Staff voiced concerns over Mr. Williamson maintaining that position given that the Commission had previous difficulties with other utilities under his control.<sup>3</sup>

19. On September 4, 2007, Red Rock amended its Application to note that Mr. Mark Weinberg had been appointed as its new General Manager. Mr. Weinberg has had prior experience managing water companies in Arizona.

20. Although the Company removed Mr. Williamson as General Manager, Staff

<sup>3</sup> See Decision Nos. 60902 (May 22, 1998); 61149 (October 7, 1998); 61892 (August 7, 1999); 62949 (October 10, 2000); and Docket No. W-03672A-01-0474.

1 recommends that the Company file an affidavit signed by all members of Red Rock averring that Mr.  
2 Williamson did not perform any services, was not and is not employed or in any way affiliated with  
3 Red Rock. Staff did not indicate a time frame for the filing of such an affidavit.

4 21. The Company had not been aware of Mr. Williamson's history with the Commission  
5 and has agreed that Mr. Williamson will not perform services for, or be affiliated with, Red Rock. At  
6 hearing, Staff recommended that because Mr. Williamson did, in fact, work for Red Rock in 2007,  
7 that the first affidavit should be filed not later than January 15, 2009, for the year 2008.

8 22. Pursuant to the Commission's rules, Red Rock provided five-year projections for plant  
9 values, operating revenues and expenses, and number of customers. Such projections are necessary to  
10 establish rates for new companies due to the lack of historical data. Staff reviewed Red Rock's  
11 projections and recommends that the Commission find Red Rock's fair value rate base to be  
12 \$6,813,369. We concur with Staff's recommendation and find that Red Rock's initial fair value rate  
13 base shall be \$6,813,369.  
14

15 23. Based on the entirety of its review, Staff further recommends that the Commission  
16 grant Red Rock's application for a CC&N to provide water services, subject to the following  
17 additional conditions:  
18

- 19 a. That the Commission require Red Rock to file within one year of the effective date  
20 of this Order a copy of the franchise agreement, also known as a public utilities  
license agreement, between Red Rock and Pima County;
- 21 b. That the Commission authorize Red Rock to charge the rates and charges proposed  
22 by Staff on Schedule CRM-W-5, attached to the Staff Report (as set forth above);
- 23 c. That the Commission require Red Rock to file within 24 months of the effective  
24 date of this Decision a copy of the "Approval to Construct" for Phase I issued by  
the ADEQ;
- 25 d. That the Commission require Red Rock to notify the Commission within 15 days  
26 of providing service to its first permanent customer;
- 27 e. That the Commission require Red Rock to file a rate application no later than three  
28 months following the fifth anniversary of the date the Company begins providing  
service to its first customer;
- f. That the Commission require Red Rock to maintain its books and records in  
accordance with the NARUC Uniform System of Accounts for water utilities and  
maintain separate books and records for the Verano Community;

- 1 g. That the Commission require Red Rock to use the depreciation rates by individual  
2 NARUC category, as set forth in Schedule CRM-W-3, attached to the Staff  
3 Report.  
4 h. That the Commission require Red Rock to collect from its customers a  
5 proportionate share of any privilege, sales or use tax.

6 24. The Company states that it does not plan on building any golf courses or lakes within  
7 the project. Red Rock should be required to conserve groundwater and should be prohibited from  
8 selling groundwater for the purpose of irrigating any future golf courses within the certificated  
9 expansion area, as well as any ornamental lakes or water features located in the common areas of the  
10 proposed new development within the expansion area.

11 25. Staff further recommends that the Commission's Decision granting the requested  
12 Certificate for Red Rock be considered null and void without further order from the Commission if  
13 the Company fails to comply with any of the above-described conditions, and within the specified  
14 time frames, unless the Commission grants an extension of time for compliance with those  
15 requirements.

16 26. Staff's recommendations, as described above, are reasonable and should be adopted.

### 17 CONCLUSIONS OF LAW

18 1. Red Rock is a public service corporation within the meaning of Article XV of the  
19 Arizona Constitution and A.R.S. §§40-281 and 40-282.

20 2. The Commission has jurisdiction over Red Rock and the subject matter of the  
21 application.

22 3. Notice of the application was provided in accordance with Arizona law.

23 4. There is a public need and necessity for water service in the proposed service area as  
24 set forth in Exhibit A attached hereto.

25 5. Red Rock is a fit and proper entity to receive a Certificate to provide water service in  
26 the proposed service area as set forth in Exhibit A attached hereto.

27 6. Staff's recommendations, as set forth herein, are reasonable and should be adopted.  
28

**ORDER**

IT IS THEREFORE ORDERED that the application of Red Rock Utilities, LLC, for a new Certificate of Convenience and Necessity to provide water service to the area in Pima County, Arizona, as described in Exhibit A hereto, is approved subject to the conditions, recommendations and requirements recommended by Staff, as set forth in Findings of Fact Nos. 21, 22 and 23.

IT IS FURTHER ORDERED that Red Rock Utilities, LLC, shall charge initial rates and charges in accordance with Staff's recommendations, as set forth herein.

IT IS FURTHER ORDERED that in light of the on-going drought conditions in Arizona and the need to conserve groundwater, Red Rock Utilities, LLC, is prohibited from selling groundwater for the purpose of irrigating any future golf courses within the certificated expansion area, as well as any ornamental lakes or water features located in the common areas of the proposed new development within the expansion area.

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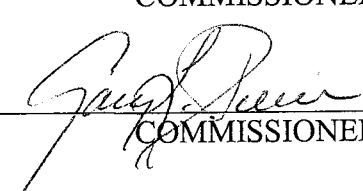
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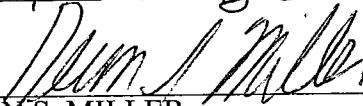
IT IS FURTHER ORDERED that failure by Red Rock Utilities, LLC, to comply with Staff's recommendations, within the specified time frames set forth above, will render the Certificate null and void after due process unless the Commission grants an extension of time for compliance with those requirements.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

 CHAIRMAN	 COMMISSIONER
 COMMISSIONER	 COMMISSIONER
	 COMMISSIONER

IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 4<sup>th</sup> day of Dec., 2007.

  
DEAN S. MILLER  
INTERIM EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: RED ROCK UTILITIES, LLC

2 DOCKET NO. WS-04245A-07-0363

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5 General Manager  
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## EXHIBIT A

## PARCEL DESCRIPTION

Description of that parcel of land located in Sections 10, 12, 13, 14 and 15, Township 18 South, Range 14 East, Gila and Salt River Meridian, Pima County Arizona, being more particularly described as follows;

**BEGINNING** at a found 2" Brass Capped Survey Monument at the Northeast corner of said Section 12;

Thence South 00°11'08" East, along the East line of the Northeast quarter of said Section 12, a distance of 300.01 feet;

Thence leaving said East line, South 89°26'24" West a distance of 115.00 feet;

Thence South 00°11'08" East a distance of 189.39 feet;

Thence North 89°26'24" East a distance of 115.00 feet to a point on the East line of the Northeast quarter of said Section 12;

Thence South 00°11'08" East, along said East line, a distance of 2144.73 feet to the East Quarter Corner of said Section 12, being marked with a found ½" rebar with no tag;

Thence South 00°01'03" West, along the East line of the Southeast quarter of said Section 12, a distance of 2657.56 feet to the Southeast Quarter of said Section 12, being marked with a found 1-1/2" aluminum capped pin stamped LS 4785;

Thence South 00°13'51" East, along the East line of the northeast quarter of said Section 13, a distance of 2640.34 feet to the East quarter corner of said Section 13, being marked with a found 1-1/2" aluminum capped pin stamped PLS 21765;

Thence South 00°03'13" West, along the East line of the Southeast quarter of said Section 13, a distance of 2651.46 feet to the Southeast corner of said Section 13, being marked with a found 2" Brass Capped Survey Monument;

Thence South 89°21'52" West, along the South line of said Section 13, a distance of 5291.19 feet to the Southwest corner of said Section 13, being marked with a found 2" Brass Capped Survey Monument stamped LS 1144;

Thence South 89°29'25" West, along the South line of said Section 14, a distance of 5292.50 feet to the Southwest corner of said Section 14, being marked with a found 2" Brass Capped Survey Monument stamped LS 1144;

Thence North 89°39'13" West, along the South line of said Section 15, a distance of 5291.67 feet to the Southwest corner of said Section 15, being marked with a found 2" Brass Capped Survey Monument stamped PCHD;

Thence North 00°25'16" West, along the West line of said Section 15, a distance of 5258.16 feet to the Northwest corner of said Section 15, being marked with a found 1-1/2" aluminum capped pin stamped LS 4785;

Thence North 00°17'33" East, along the West line of the Southwest quarter of said Section 10, a distance of 2629.18 feet to the West quarter corner of said Section 10, being marked with a found 1-1/2" aluminum capped pin stamped LS 4785;

Thence North 00°16'53" East, along the East line of the Northwest quarter of said Section 10 a distance of 2629.63 feet to the Northwest corner of said Section 10, being marked with a found 1-1/2" lead capped pin stamped PE 1322;

Thence North 89°37'26" East, along the North line of said Section 10, a distance of 2649.30 feet to the North quarter corner of said Section 10, being marked with a found 1-1/2" aluminum capped pin stamped LS 4785;

Thence North 89°37'12" East, along the Northeast quarter of said Section 10, a distance of 2573.72 feet to a point on the west Right of Way of Swan Road;

Thence South 00°14'04" West, along said West Right of Way, being 75 feet West of and parallel with the East line of the Northeast quarter of said Section 10, a distance of 2645.62 feet;

Thence South 00°13'55" West, continue along said West Right of Way, being 75 feet West of and parallel with the East line of the Southeast quarter of said Section 10, a distance of 2645.75 feet;

Thence leaving said Right of Way, North 89°58'45" East a distance of 75.00 feet to the Southeast corner of said Section 10, being marked with a 1/2" rebar with no tag;

Thence North 89°27'14" East, along the North line of the Northwest quarter of said Section 14, a distance of 2652.12 feet to the north quarter corner of said section 14, being marked with a 1/2" rebar with tag stamped LS 13178;

Thence North 89°27'22" East, along the North line of the Northeast quarter of said section 14, a distance of 2652.03 feet to the Northeast corner of said Section 14, being marked with a found 1-1/2" aluminum capped pin stamped LS 4785;

Thence North 00°04'12" East, along the West line of the Southwest quarter of said Section 12, a distance of 2647.60 feet to the West quarter corner of said Section 12, being marked with a found 1-1/2" aluminum capped pin stamped LS 4785;

Thence North 00°04'17" East, along the West line of the Northwest quarter of said Section 12, a distance of 2647.62 feet to the Northwest corner of said Section 12, being marked with a found 2" Brass capped survey monument stamped LS 4527;

Thence North 89°26'27" East, along the North line of the Northwest quarter of said Section 12, a distance of 2642.33 feet to the North quarter corner of said Section 12, being marked with a found 2" Brass capped survey monument;

Thence North 89°26'24" East, along the North line of the Northeast quarter of said Section 12, a distance of 2642.29 feet to the POINT OF BEGINNING.

Said parcel contains 139,598,222 square feet or 3204.76 acres of land, more or less.